



## Factsheet

# The Care Act

**The Care Act 2014, which came into effect in 2015, updates the law on social care, bringing relevant laws together under one piece of legislation.**

This factsheet explains some of the key changes made by the Care Act to the provision of social care and how this might affect you.

The Care Act introduces some key changes to the rules about who qualifies for support. It gives people the right to have a say about their care needs. It also gives people a right to a review when they feel it is necessary, or if they want to challenge decisions made about their care. In addition, the Care Act gives people the right to advocacy support if they need help.

Importantly, the Care Act strengthens the rights and recognition of carers in the social care system. Carers can request an assessment for themselves and receive support and community care services in their own right.

### Needs assessment

From 1 April 2015 you have a right to a free needs assessment from the Local Authority if you appear to have a need for care and support.

The needs assessment will look at how you are managing everyday activities and household tasks, known as care outcomes. From this, your Local Authority will decide whether they can support you. This is also your opportunity to discuss with a professional what support might be best for you.

The Local Authority has a duty to help you with your eligible needs as set out in your needs assessment.

You should not be refused an assessment because of your financial situation or because the council thinks your needs are not high enough to qualify for their support.

The assessment should put you at the heart of the process, encouraging you to think and explain what you want to achieve. You can have someone with you to support you at the assessment.

## Eligibility for social care

The Care Act changes the rules about who qualifies for social care and support.

You now qualify if you answer “yes” to all three of these questions:

- Is your need for support because of a physical or mental impairment, or an illness?
- Are you unable to achieve two or more of the care outcomes? (For example; wash yourself and clean your clothes, dress yourself, move around your home safely, prepare and eat food without help)
- Could this have a significant impact on your wellbeing?

It is not enough to show that you have difficulties; you must show that these difficulties have an impact on your daily life and wellbeing. This means it is essential that you are able to fully explain yourself at the needs assessment. For this reason, it may be important to have someone with you to support you and help make your case.

Importantly, if an individual would have substantial difficulty in understanding, retaining or using the information given at the needs assessment, the Local Authority must provide independent advocacy to support that individual during the assessment.

## Carers' assessments

The rules under the Care Act relate to adult carers only, meaning people over 18 who are caring for another adult.

If you care for a friend or family member, the Care Act means that you now have a legal right to a free carer's assessment and if your needs assessment shows you qualify for help, you now have a legal right to support. You can have a carer's assessment regardless of whether or not the person you care for is getting support from the local council.

You will be eligible for support if you answer yes to all these questions:

- Do you need support because you are caring for another adult and would they be unable to cope without your care?
- Is your physical or mental health suffering? Are there activities you are unable to do due to the care you are giving? This could include taking care of children, keeping a home clean and safe, doing the shopping and preparing meals, having contact with others, or doing things you enjoy.
- Could this have a significant impact on your wellbeing?

If support is given, it could be in the form of providing services to the person you care for or by providing support directly to you. This could include practical help with housework or gardening, emotional support from other carers, or support to improve wellbeing such as gym or other form of leisure membership.

If services are provided to you directly, you will undergo a financial assessment to determine whether, and to what extent, you should be charged. However, you cannot be charged for services provided to the person you care for. That person will be charged only if they can afford it.

## Personal budgets

A personal budget is a statement of the amount of money needed to meet your eligible social care needs.

If you live in a care home, then the personal budget will be the sum the Local Authority will expect to pay in care home fees to meet your needs. If you receive care at home, your personal budget will be the cost of providing the care required to meet your assessed needs.

If you are receiving care at home, you can ask the Local Authority to pay you the personal budget as a direct payment, enabling you to purchase your own care. This can give you greater control over how your support is provided.

## Paying for social care

Social care and support remains unchanged under the Care Act and is not a free service. People have always had to pay something towards the cost of their care and support. This contribution is means tested meaning there is a financial assessment that must be carried out to calculate the amount you ought to be paying towards your care.

When conducting a financial assessment there are complicated rules about what should and should not be taken into account. For example, there are some circumstances when the value of your home should not be included in the financial assessment for care home fees. We can provide advice and support for anyone who is being financially assessed.

With Local Authorities facing budget cuts and being under pressure to save money in today's financial climate, we are seeing more individuals struggling to access appropriate care and support. Our team of expert lawyers have experience in helping ensure a personal budget meets an individual's assessed needs. We're also highly experienced in challenging care needs assessments where the assessment itself is flawed.

**Contact us today**  
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